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In re Application of
GLADWIN et al.
Application No.: 10/563,683
PCT No.: PCT/US04/22232
Int. Filing Date: 09 July 2004
Priority Date: 09 July 2003
Attorney Docket No.:4239-67618-07
For: USE OF NITRITE SALTS FOR THE TREATMENT OF CARDIOVASCULAR CONDITIONS

DECISION ON

PETITION UNDER

37 CFR 1.497(d)

This is a decision on applicants' "Response to Notification of Defective Response and Request for Correction of Inventorship", filed on 08 December 2006 in the United States Patent and Trademark Office (USPTO), requesting the addition of Richard O. Cannon, III as an inventor in the above reference application.

BACKGROUND

On 04 October 2006, applicant filed declarations in response to the 27 April 2006 Notification of Missing Requirements, identifying the international application and identified the inventors listed in the published international application and Richard O. Cannon III who was not identified as an inventor on the published application. Applicant did not provide Form PCT/IB/306 adding Richard O. Cannon III as co-inventor.

On 09 November 2006, a Notification of Defective Response was mailed to applicant indicating that the declarations were unacceptable because (1) it was not executed in accord with 37 CFR 1.497(a) and (b) and (2) inventor Richard O. Cannon III was not listed on the published application.

On 08 December 2006, applicant filed a petition under 37 CFR 1.497(d).

DISCUSSION

As previously indicated, Richard O. Cannon III was not named as an inventor in the published international application PCT/US04/22232. The declaration submitted on 4 October 2006 identifies Richard O. Cannon III as co-inventor and thus is not in compliance with 37 CFR 1.497(a) and (b). Richard O. Cannon III was not accepted under PCT Rule 92*bis* as co-inventor. In response to the 09 November 2006 Notification of Defective Response, applicant now files a petition under 37 CFR 1.497(d) to add Richard O. Cannon III as an inventor.

Petition under 37 CFR 1.497(d)

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(I); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

Applicant satisfied Items (1) and (2) above.

With regard to Item (3), applicant provided Written Consents of The Government of the United States of America through The Department of Health and Human Services and National Institutes of Health Office of Technology Transfer, The University of Alabama Research Foundation, Wake Forest University, Loma Linda University and The Board of Supervisors of Louisiana State University (assignees) to correct the inventorship under 37 CFR 1.497(d)(3) consenting to the addition of Richard O. Cannon III as an inventor in this application. Item (3) above has been satisfied.

Accordingly, applicant has met all of the requirements of 37 CFR 1.497(d) to add Richard O. Cannon III as co-inventor in the above-identified international application.

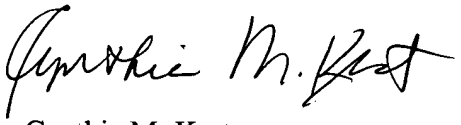
The separate complete declarations met the requirements of 37 CFR 1.497 (a) and (b) and are acceptable as filed.

CONCLUSION

The declarations executed by Richard O. Cannon III and the joint inventors named in the above referenced application are acceptable and in compliance with 37 CFR 1.497(a) and (b).

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Richard O. Cannon III as an inventor is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (2) and (4) date is **04 October 2006.**



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